

**CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION**

Meeting Date: July 17, 2024

ITEM: 928 13th Street – Zoning Exception for a Reduction of Setback to accommodate an addition – Nathaniel Herron – VAR-006512-2024

REQUESTED ACTION: Zoning Exception for a Reduction of Rear Yard Setback

Applicant's Request: The applicant and property owners, Nathaniel and Mia Herron, is seeking approval of a Zoning Exception for 8.75 feet or 25 percent of the rear yard setback to accommodate a bedroom and bath addition to the rear of the house. If approved, the variance would allow for a 24 foot addition to the existing house resulting in a rear yard of approximately 27 feet.

History: The lot was platted in 1956 in Clover Hills Plat 3 and the house was constructed in 1953. A detached garage was added to the property in 1978.

City Council Subcommittee: This item was not presented to the Development and Planning City Council Subcommittee as they do not have authority over zoning exception requests.

Staff Review and Comment: Staff notes the following items of interest:

- *City Code Requirement as Relates to Request:* City Code, Title 9, Zoning, Chapter 7, Table 7.2, Setback and Bulk Density Regulations for the Residential Single Family (RS-10) district sets the rear yard setback for primary structures at 35 feet from the rear property line. The zoning exception request is to allow an 8.75-foot encroachment into the rear yard setback for a building addition.
- *Variance vs Zoning Exception:* In the fall of 2020, city code was amended to provide an alternative to the variance process (AO-004860-2020). This amendment created the Zoning Exception process specifically for existing residential properties wanting to make improvements. A zoning exception is similar to a variance in that it is a relaxation of the applicable zoning requirement; however, a variance requires the applicant show there is an “unnecessary hardship,” while an applicant must only show there is a “practical difficulty” for a zoning exception request. Practical difficulties as they relate to consideration of the request may be shown by special circumstances which apply to the property such that the terms of Title 9 cannot be satisfied.

Zoning Exception Findings: The Zoning Exception process is not permission to evade zoning regulations just because a property owner wants an improvement. To grant the zoning exception, all of the following standards and criteria must be met, or conditions and limitations, as the Board deems necessary, imposed to allow it to make said findings.

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An “practical difficulty” may be shown by:
 - a. Significant or unjustified expense in light of the scope of the project; or
 - b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
 - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
 - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.
3. The requested exception is the minimum necessary to achieve the purpose of the request.
4. The requested exception will not have a negative impact on the character or context of the neighborhood.
5. The requested exception will not be detrimental to the public health, safety or general welfare.
6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the above findings can be made. The applicant’s findings to grant the variance and staff’s findings, are included herein for the Board’s consideration in making their decision .

Lead Staff Member: Kara Tragesser

Staff Report Reviews:

<input checked="" type="checkbox"/> Development Coordinator or Director	<input checked="" type="checkbox"/> Legal Department
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Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	July 5, 2024
Date(s) of Mailed Notices	July 2, 2024

Subject Property





Applicant's Findings

A variance shall only be granted if all of the following findings are made; or if conditions and limitations, as the Board deems necessary, are imposed to allow it to make said findings. **It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the following findings can be made:**

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

APPLICANT RESPONSE: Yes

2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An "practical difficulty" may be shown by:
 - a. Significant or unjustified expense in light of the scope of the project; or
 - b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
 - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
 - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

APPLICANT RESPONSE: *Would require extreme change to existing structure and/or orientation to western/southern exposure and/or removal of garage.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

APPLICANT RESPONSE: Yes.

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

APPLICANT RESPONSE: *No, all properties adjacent have a rear or property additions and backyards which will be the condition after this project. There still will be substantial rear and side yards.*

5. The requested exception will not be detrimental to the public health, safety or general welfare.

APPLICANT RESPONSE: No.

6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

APPLICANT RESPONSE: No.

Staff's Findings

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area.

STAFF RESPONSE: *The proposed addition to the property is an improvement that is reasonable. The adjacent areas generally have not improved their property in such a manner; however, the general housing in the neighborhood consists of similar square footage dwellings that could accommodate a similar addition.*

2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. An "practical difficulty" may be shown by:
 - a. Significant or unjustified expense in light of the scope of the project; or
 - b. Destruction or demolition of significant and attractive features of the property, or similar reasons; or
 - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict placement of the intended improvement; or
 - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

STAFF RESPONSE:

- a. *The existing home has several small additions to the rear of the building and a very shallow roof slope leaving limited options for a building addition without a significant change to the main roof structure to avoid water issues.*
- b. *No significant or attractive features were noted as an impediment.*
- c. *The subject lot is impacted by a change in the lot orientation at the corner of Ashworth Road and 13th Street that results in a shallower and smaller lot than the majority of the lots within the plat.*
- d. *Staff agrees that there may be existing structure layout that influences the design of the addition such that the proposed orientation is the most appropriate way to improve the property without significant changes to the existing structure.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

STAFF RESPONSE: *The requested exemption is the minimum necessary to be able to construct the addition for a bedroom and bath.*

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

STAFF RESPONSE: *The requested exception will not have a negative impact on the neighborhood.*

5. The requested exception will not be detrimental to the public health, safety or general welfare.

STAFF RESPONSE: *The requested exception will not be detrimental to the public health, safety or general welfare.*

6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

STAFF RESPONSE: *The requested exception is compliant with the zoning district in which the property is located.*

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 50265-0320 515-222-3620

When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

RESOLUTION BOA-2024-11

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, (APPROVING / DENYING) THE ZONING EXCEPTION REQUEST FOR A 25 PERCENT REDUCTION OF THE REAR YARD SETBACK FOR THAT PROPERTY LOCATED AT 928 13TH STREET

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the property owners, Nathaniel and Mia Herron, has requested approval of a Zoning Exception from Title 9, (*Zoning*), Chapter 7, (*Setback and Bulk Density Regulations*), Section 4, (*Setback and Bulk Density Regulations*), Table 7.2, to reduce the required 35 feet rear yard setback by 8.75' resulting in a 26.25' rear yard setback to allow the construction of a building addition on the property located at 928 13th Street and legally described as:

LOT 35 (EXCEPT THE EAST 5 FEET THEREOF) IN CLOVER HILLS PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA

WHEREAS, studies and investigations were made, and staff reports, and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

WHEREAS, on July 17, 2024, the Board of Adjustment held a duly noticed public hearing to consider the application for a Zoning Exception (VAR-006512-2024).

WHEREAS, based upon a review of the submitted zoning exception request, the Board of Adjustment finds (**In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings**) as attached at Exhibit B (subject to the conditions of approval identified in Exhibit A);

NOW, THEREFORE, the Board Of Adjustment of the City of West Des Moines does resolve that a Zoning Exception to allow a reduction of the required 35' rear yard setback by 8.75 feet resulting in a 26.25 foot rear yard setback is **(approved / denied)**.

PASSED AND ADOPTED on July 17, 2024.

Thomas M. Cunningham, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on July 17, 2024, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval

1. None

Exhibit B
Board of Adjustment Findings